App. F. IX-4

1927-28

File No. 36-27

Previous References (Law)

Serial Nos. 1-5

P

Later References
Law Dept 82-36

√

General and Revenue Secretariat.

Serial Nos. 5

Part B for March 28

SUBJECT

Notice on behalf of Mallu, Power by K. Ramaswami Advocate, regarding filing a suit for declaration of his title & possession of certain lands of Ramnapur Amrithmahal Kaval.

B.J. Nyanza
18/1/29.

3268 2

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

2) Govt may not stay the execution of the order where the order itself was confirmed by them.
A report may be called for from the Re. on the notice
Secy d.d) 8/1 4/1
3) A. may be drawn
8/1 4-1.
8/1 4/1.

Secy 5/1 (4)
draft Rules for approval.
Mellor 5/1/28
5/1
5/1
To the Rev Comm
No P 3670 d/6-1-28
Calls for a report—
Secy 23/1/28
Reminder Issued.
Mellor 9/2/28
14/2
Issued 4630 d/14/4/28

Secy 15/2
From the R. C letter no. 2865/27 — d 16/18 - 2 - 28
forwards a report on the notice with the connected records from his office

NOTE—Contn. sheet.

WD 0324 --GPB—60,000—24-5-27

3268 4101 4-5-38 4

App. F. III—2]

General and Revenue Secretariat. | File No. 36 of 1927

Serial No.

Draft Sealed.
Mcaa (L.R.) 2/3
2/3/28
affd 8/4
7.3.
Mcaa 2/3

To
The Rev Commr.
Dop 5161 d 8.3.28.
Enquires whether any summons have been received in his Office etc

Mcaa 12/3

From the Revs Comr. no 2855/24-28 d 13/15-3-28 states, no summons have been received.

Sealed for perusal. No suit appears to have been filed - Party has not a good cause of action. Threatened suit - may if appeal be awaited

Mcaa 17.3.28. Mcaa 17/3
Mcaa 17/3
Mcaa 19.3 19/3

Suit filed 0.S. 108 of 29
(Law 6 of 28)

Mcaa 19/3/29

B Mcaa 8/1/29

NOTE—Contn. sheet.

WD 0324 -GPB—60,000—24-5-27

3268
P82

Registered Ack. Acknowledgment.

By regd. post
Protection Br. To
3/1/28.

Law 36.27-1

The Chief Secretary
to the Government of Mysore,
Bangalore City.

Sir,

As per instructions of my client, Mr. Mallay Gowda, I herewith send you a Notice under S 80 C.P.C. 1911 containing all the particulars, required under that Section, of a Civil Suit, which he intends to file against one Nanjay Gowda as the 1st defendant and "the Government of MYsore" as the 2nd defendant in the Court of the District Judge of Mysore, two months next after service on you of the said Notice.

I remain,
Sir,
our obedient servant,

Mysore
31-12-1927.

V. Ramaiya
Advocate

Enclosures:—
1) Notice under S. 80 C.P.C. 1911
2) Application with Stamp of Re... affixed thereto praying for stay of Execution

V.R.
31/12/27.

APP. F. VI. Gl.]

V

SUBJECT.....

.....

.....

Section Law

File No. 36-27

Serial No. 2

Diary No. of letter replied to.....

No. 3670(2)

General and Revenue Secretariat

( )

the 192

To

the R. C.

Bangalore

Date of issue..... 6/1/28

Signed by..... M. [illegible]

Sir

I have the honour to send herewith in original ~~instead~~ a suit-notice received from Mr. K. Rama Iya, Advocate, Mysore, on behalf of Malleyamma for a declaration of her right to Schedule lands and for possession of 190 acres of Rayapura Asst-Mahal Kavel. and to request that a very early report may kindly be sent ~~along with the~~ with the connected records -

× to be kindly returned with reply -

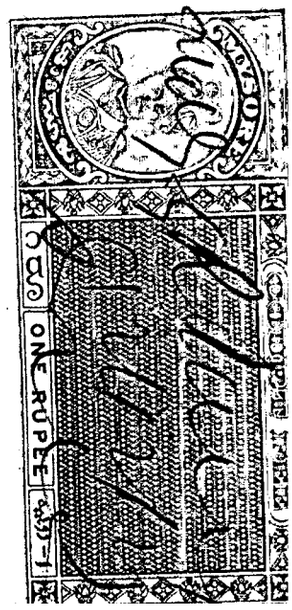
List of enclosures.....

Copied by..... 6/1/28

Examined by .....

over

I have



3

BEFORE THE GOVERNMENT OF HIS GHIGHNESS THE MAHARAJA

OF MYSORE,

Bangalore.

--

Revenue Mis. Petition No. of 1927-8.

PETITIONER:	OPPONENTS.
Mallay Gowda son of Nanjay Gowda, Thirupathi Hulli, Dudda Hobli, Hassan Taluq.	Nanjay Gowda, son of Kari Gowda, Basavaghatta, Dudda Hobli, Hassan Taluk.

The Petitioner respectfully begs to state and prays as follows:--

1. The former Revenue Commissioner, in his official Memorandum No. 8/Dis. 876 of 1926-7, had passed an order granting certain lands to the petitioner and sent to the petitioner the Endorsement No. D1 Dis. 716--G1/26-27, dated 28-2-1927, the petitioner accepted the offer and the terms and paid the price as directed, became the owner and got possession of the lands.

2. On 21-2-1927 the opponent presented an application to the present Revenue Commissioner. The latter, though he had no power to deprive the petitioner of his vested right contrary to the order of his predecessor in offices, acted quite ultra vires and passed an unjust and illegal order on 13-4-1927 in No. D/Dis. pet. 781 of 1926-7 depriving

the petitioner of his said right and possession.

3. The petitioner, thereupon, appealed in Appeal No. 9 of 1926-7 to the Government. The latter refused and on 26-11-1927, to set aside the said illegal order.

4. The petitioner has this day sent to the Chief Secretary to the Government, a Notice under S.80 C.P.C. 1911, intimating his intention of filing a suit against the Government for the declaration of his right and the recovery of the lands and he has to wait for two months according to that section.

5. The petitioner apprehends that if, in the meanwhile, the order of the Present Revenue Commissione were to be given effect to, it will lead to several complicacies and the impleading as defendants several persons that may happen to acquire any interest in the said lands and also multiplicity of suits inter se and against the Government.

6. Prayer: The Petitioner prays that for the reasons stated above and those in the said Notice, the Government may be pleased to direct the stay or the execution of the order of the present Revenue Commissioner till the final disposal of the matter by the Civil Courts.

Mysore
31-12-1927

4. 4101/P 27

OFFICE OF THE REVENUE COMMISSIONER
MYSORE,

No. C.2865/27-28.
Ans

Dated Bangalore 16th February 1928.

FROM

P. G. D'SOUZA, ESQ., B.A., B.L.,
REVENUE COMMISSIONER IN MYSORE.

To

The ~~Chief~~ Secretary to the Government
of His Highness the Maharaja of Mysore,
Law Department, Bangalore. ~~Bangalore~~

& 3268-
Sec 15/2

SIR,

Notice of suit on behalf of Malleygowda for a declaration of right to Schedule lands and for possession of 190 acres of Rangapur Amrit Mahal Kaval lands in Arsikere Taluk.

Referring to your letter No.P.3670(2) dated 6th January 1928 calling for a report in connection with the notice of suit served on Government by Mr. Rama Iyer on behalf of Malleygowda for his a declaration of right to Schedule lands and for possession of 190 acres of Rangapur Amrit Mahal Kaval in Arsikere Taluk, I have the honour to state that out of 5000 acres of Rangapur Amrit Mahal Kaval surrendered to Revenue Department as per Government Order No.G.4757-61/M11v.235-16-3 dated 4th September 1918 a few blocks were made of land suited for cultivation. Block B out of them comprises an extent of 250 acres and is surrounded on all sides by Government villages. One Malleygowda applied to the Deputy Commissioner, Hassan District, for the grant of this whole extent to him for cultivation. The villagers of Ramjihalli whose gomal area was insufficient for their cattle also applied to the Deputy Commissioner for the grant of an extent of 60 acres of land out of this block for grazing purposes. The Deputy Commissioner on the recommendation of the Local Officers proposed (1) the grant of 60 acres of gomal out of this block to the Ramjihalli villagers subject to their paying an annual hulbanni at 4 annas an acre and (2) of 60 acres of land to Malleygowda under the darkhast rules for an upset price of Rs.3/- (which had been fixed as market value) per acre and 130 acres at 8 annas per acre for grazing ground. The Deputy Commissioner's letter No.D.R.70/26-27 dated 23rd October 1926 containing the above proposals is in the records.

2. As per this recommendation my predecessor (Mr. C.S.

(Mr. C.S. Balasundaram Iyer) ordered (1) that an extent of 60 acres out of the 'B' Block may be reserved as hulbanni kharab and the sam leased out annually to the villagers of Ramjihalli and (2) an exten of 60 acres granted to Mallegowda for an upset price of Rs.3/- per acre and another extent of 130 acres given to him for an upset price of 8 annas per acre subject to his paying the usual assessmen on the lands from the year of grant.

3. On 21st February 1927 one Nanjegowda petitioned to this office appealing against the disposal of the 250 acres of the Ranga pur Amrit Mahal Kaval stating that he had once been in possession of the lands in question for over 20 years, that they had been once given to him in lieu of his salary, that inspite of his being a local man, his claims have been passed over, and the lands grante to a stranger Mallegowda at a very low price. that including himsel there were other previous darkhastdars for this land and that he is prepared to take up the entire extent paying a uniform price of Rs.4/- per acre. The connected records were thereupon got from th Deputy Commissioner and perused by me and the parties with their respective counsels were heard on 8th April 1927. With a view to give facilities to more than one individual to take to cattle breed ing, I ordered that the lands be divided into two blocks of equal size and one of them given to Nanjegowda (respondent) at Rs.4/- per acre and that option be given to Mallegowda, the former grantee to take up the other block on payment of the difference in the pric at the uniform rate of Rs.4/- per acre and that in case the latter is unwilling the land may be disposed of on similar lines to any other applicant, failing which it may be given to Nanjegowda.

4. Against this order Mallegowda preferred an appeal to Government. The Government after perusal of the records ordered that they found no reason to interfere with the order passed by this office (Vide Government Order No.R.4008/L.R. 541-26-4 dated 26th November 1927).

5. The party has now filed a suit for a declaration

of his rights to Schedule lands and for possession of 190 acres of the Amrit Mahal Kaval formerly granted to him.

6. It is needless to point out that under Section 221 Cl.(F) para 4, the suit is not maintainable in Civil Court. It was a mistake to have shown any concession to this Mallegowda, who is connected with the Amrit Mahal Department.

7. The notice of suit received with your letter and the connected records as noted in the margin are enclosed as desired in your letter under reference.

1. Vernacular file received from the Deputy Commissioner, Hassan District.	as noted in the x margin are enclosed
2. This office file No.D(1).Dis.716/26-27.	
3. .do... D(1).Dis.541/27-28	

I have the honour to be.

S i r,

Your most obedient servant,

Revenue Commissioner.

BR.

b

Notice

IN THE COURT OF THE DISTRICT JUDGE,

MYSORE.

O. S. No._____

1937-38.

Plaintiff:-- Mallay Gowda, Son of Hanjay G
ago 50years, Kangadikar Vokka
caste, landholder, residing i
Thirupathi Halli, Hulla Hobli
Hassan Taluq.

Defendants:-- 1. Hanjay Gowda, Son of Kari Gowda
ago 40years, Kangadikar Vokkali
caste, landholder, residing in
Basavaghatta, Hulla Hobli, Hasse
Taluq.

2. The Government of Mysore,
by its agent, the Chief Secretary,
Bangalore City.

1) O 7 R 1 and

2) S 80 and O 27, C. P. C. 1911 and

3) Regulation No. VII of 1873:--

The plaintiff, above named, begs to state
and pray as follows:--

I. In 1917, out of 5000 acres of Rungapura
Amrit Mahal Naval Department of the 2nd Defen
dant, Javagal , Arsikere Taluq, Hassan
District, 5000 acres were surrendered to the
Revenue Department of the 2nd Defendant and
the same were given away to ryots for cultivation and

[illegible] of the 2nd defendant, the Revenue District Survey Officers divided the said 3000 acres into three blocks "A", "B" and "C", and made a detailed Survey of only the "B" block with demarcations and assorted it into 60 acres of culturable and 190 acres of unculturable zemal. The Revenue Officers published a proclamation, in general, and in Rangapur and the villages adjacent thereto in particular, inviting darkhasts therefor from the ryots. As no ryot or any village came forward with a darkhast for the said 3000 acres or any portion thereof till 1935, in spite of the best efforts of the Revenue Officers, the Deputy Commissioner of [illegible] District submitted a report to the then Revenue Commissioner Mr. C. S. Palaswamiram [illegible] said reasons might be returned [illegible] Revenue Department.

III. Before the said Revenue Commissioner made any report to the 2nd defendant, the ryots of Ranjihalli adjacent to Rangapur village, who had, for about 8 years from the time of the said surrender, been [illegible] freely as zemal, apprehending that they would be deprived of the free use thereof on account of surrender, made a representation to the Assistant Revenue Officer, praying for a free grant of a portion of the said block.

P. F. VI. Gl.]

BJECT.....

.....

.....

Section

File No.

Serial No.

No. 4620

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the 192 .

To

The Revenue Officer Mysore

Date of issue 14/2/28

Signed by M N G

Sir,

I am directed to request an early reply ~~Reference~~ to this office no for report 3670 d 6/11/28. forwarding a petition on behalf of Malleshwara Devasthana re declaration of his right to certain lands and possession of the same. 190 acres of Ranganathapura Amrithamahal Kaval. ~~for an early report and to request that the reply may be expedited~~

List of enclosures.....

Copied by.....

Examined by .....

Thanks

Secretary to Govt

Revenue

over

WD 0562 -GPB—31,000—17-8-25

dry field in Basavaghatta, the 1st defendant village, adjacent to the "A" block, belonging to Kari Gowda, the 1st defendant's uncle's son, for execution of a decree which the plaintiff had obtained against that Kari Gowda, and obtained delivery thereof about 1935. The Plaintiff, therefore felt the need of the "A" block for his cattle and block which he intended to maintain at Basavaghatta, and made a complaint to the Amaikere Taluq Amildar for the grant to him of the whole of "A" block for mortgage tenure.

V. The said Amildar, however, referred the said two applications to the latter. The latter, after due advertisement, convened the meeting of all the neighbouring villagers and, in the presence of the objectors of those applications, fixed the value of the cultivable 68 acres at Rs.3/- per acre and the remaining uncultivable 100 acres at Re.1 per acre. The ryot came forward with his bid even for this estimated price. The Amildar made a report according to the said Amildar.

I. The said Amildar, thereupon, persuaded and influenced both the ryots of Kariahalli and the plaintiff, the only two contestants, and obtaining their consent and signatures, made a report recommending that, out of "A" block, 68 acres of cultivable land might be granted freely to the ryots of Kariahalli and the remaining portion to the Plaintiff as per estimate made by the Amildar. Both the Sub-Divisional Officer and the Deputy Commissioner had reported accordingly to the Mysore Commissioner. Thereupon, the then Revenue Secretary, Mr. C. S.

Balasubramanya Iyer, granted 60 acres of the uncultivable portion of "B" block to the ryots of Ranjihalli on condition of their undertaking to pay Hullubanni charge annually at annas four per acre, and as per his office No. D1 Dis 716 15- 6 1/26-27, dated Bangalore. 28th January '27, he offered to the Plaintiff the grant of the Schedule lands, viz.--

(1) 60 acres of cultureable portion of the said "B" block for an upset Price of Rs 3/- per acre, and

(2) 130 acres (i.e. the unlicensed or uncultureable portion of the said "B" block) for an upset price of annas eight per acre,

subject to the usual conditions on the land grant [illegible] the Plaintiff might obtain possession of the lands on payment of the price to the Deputy Commissioner, Hassan District. The latter referred the Plaintiff to the Sub-Division Officer who, in turn, referred him to the Arsikere Taluk Collector. The Plaintiff accordingly did so on [illegible], paid the required full price, [illegible] 245-5-0 15-6-27 7-11-0 1 Rs 267- 15-6 to the Arsikere Taluk Treasury, obtained the usual receipt on 15-2-1927, came to the suit schedule lands into possession.

5. The 1st defendant, who [illegible] the Plaintiff for [illegible] lands, became [illegible]

circumstances narrated in Para IV and VI above and though he had ceased to be Kavalgar of the current-lorded portion for the last 10 years, he was untoward ing the payments of the plaintiff and preferring unwarranted entertainments and unhesitatingly rejecting disappointed at the thereby hurt upon made by the plaintiff, himself stepped forward and filed a petitol application on 21-2-1927 to the present Revenue Commissioner, Mr. P. G. De Souza, in Revenue Petition No. 701 of 1926-27, under what section or rule it is not therein stated, purporting to be against the order in Official Memorandum No. 8/Ka. 276 of 26-27 passed by the former Revenue Commissioner, Mr. C.S. Balakrishna Iyer, alleging falsely, inter alia,

(1) that the 1st defendant had several times applied to the Deputy Commissioner, Sub-Division Officer, and the Collector for the grant of the land to him at an upset price of ₹2/- per acre.

(2) that Subbarayan, Nagappa and several others of the village had also applied for the land,

(3) that he and others had made a previous offer of a uniform price of ₹2/- per acre,

(4) that he and the other landholders are residents of Kasaragod town and the lands also belong to that village and that their claim therefore had to be given preference.

(5) that the plaintiff was a perfect stranger, of a village four miles away from the lands in question,

(6) that by the order been passed without reference to the other parties but not only without [illegible] lands.

[illegible] also had [illegible]

and prayed that all the [illegible] might be sent for and final orders passed for the disposal of the lands either to the highest bidder or to the person having the best claim for the same and also prayed for an interim stay order and withdrawal of the Sagu vali chit issued to the plaintiff. The present Revenue Commissioner Mr. A.S. De Souza did pass an order accordingly and the plaintiff was dispossessed 5-5-1937 of the Schedule lands.

III. Subbaraya, who died long ago, was a man of a distant village, viz., Kuluravgundi, Dudda Kolli, Hassan Taluq, four

[illegible] of 10 acres.

Huganna is a cousin of the 1st defendant and of Basavachatta village. The 1st defendant had set him up to file recently a make-believe darkhast for the grant to him of the "D" block lands at Rs/- per acre. His darkhast was ultimately rightly rejected by the Revenue Commissioner.

The only other claimant was the 1st defendant [illegible] for the [illegible] the [illegible] the said two persons [illegible] success, and that was [illegible] of the plaintiff had been granted and realising that [illegible] could no longer make at Kithily a free and unrestricted use of the Schedule lands as hitherto, himself stolen

ight to harass and molest the plaintiff and thwart
ch forth vengeance against him though there are 1
more in "A" and "C" blocks of the same kaval still
ubject to the 1st defendant or any body he is comm
to acquire/and profit the said defendant.

The truth is there is no bona fide dur
for whatsoever other than the plaintiff for the t
Revenue Commissioner Mr. Balasubramanian Iyer, made t
grant to the plaintiff.

IV. The present Revenue Commissioner, Mr. A. S. Jo
(1) erred in facts in allowing himself t
influenced by the representations
made to him by the 1st defendant,
(2) erred in law in entertaining further petit
and sitting in judgment over the ju
order passed by his learned predeces
in office and in modifying it arbitr
(3) erred in discretion in touching, as
desire of the additional 1st defendant
very schedule lands, which had been
away, beyond the power of recalling,
the plaintiff, and in not directing
1st defendant or any other applicant
accept the whole or part of the oth
1750 acres of the same Kudappur Anni
Mahal Kaval on terms by Reality co
tition and thereby avoiding illegal
interference with the plaintiff's vo
ted rights, and without giving notice
distributing the lands to several
individuals and giving them facil
lities to cultivate the same but also be

(4) erred in [illegible] the said order: because while in the body of the order it is held that it would be desirable to give the plaintiff land so as to give him facilities to move the one inevitable to take to cattle breeding, in the same breath he went on to arbitrary modification of the original order passed at p.4 p.77 that the scheduled lands should be divided in to two blocks of equal size and one of them given to the 1st defendant at the rate of Rs.4/- per acre and option given to the original grantee i.e., the plaintiff, to take the other block on payment of the price at a uniform rate of Rs.4/- per acre and that if the plaintiff [illegible] defendant; and

(5) erred in expediency and policy: because his arbitrary order is the source of much trouble and loss ~~and inconvenience to the plaintiff~~ and inconvenience to the plaintiff and has left the other 1750 acres still undisposed of causing heavy loss to the 2nd defendant.

[illegible] the Deputy Commissioner, Mr. F.D. De Souza is quite [illegible], unjust, ultra vires, illegal and void.

VI. The plaintiff, [illegible] appeal, in Appeal No.9 of 1936-37, to the 2nd defendant. The 2nd defendant instead of setting aside the order appealed against, referred [illegible] the parties [illegible] the Deputy

[illegible] Revenue Divisional Officer Mr. [illegible] Secunderabad Taluq [illegible] "There are no grounds to interfere with the order passed by the Revenue Divisional Officer"

VII. The 2nd defendant, [illegible] Government, constitutionally represented by its Members, Madras, P. Chandy Pichchamma Rao, has in effect confirmed on 26-11-1927 the said void order of the Revenue Commissioner and the deprivation of the plaintiff's vested right to and [illegible] of the schedule lands. The said confirmation order passed by the 2nd defendant in effect denying the plaintiff's right and declining to hand over the possession of the schedule lands, is arbitrary to law, void and not binding on the plaintiff.

Hence the suit by the plaintiff against the 1st defendant and also the 2nd defendant as the 1st defendant is the cause and the 2nd defendant would arise to the ultimate effect of the said [illegible] deprivation of the Plaintiff's right and possession.

VIII. Cause of action arose on against the 1st defendant on 21-2-1927 and on 5-3-1927 and as against 2nd defendant on 26-11-1927, within the jurisdiction of this Honourable Court and is in time, as per Limitation Act, Section IV of 1871, articles 120 and 142.

IX. Prayer for reliefs:--

The plaintiff prays for a decree in his favour:--

(1) For a declaration that the [illegible] to the said schedule lands for every fasli [illegible] and for possession of the same.

V. The suit for a declaration with consequential relief falling under S. 4 iv (c) of the Court Fees Regulation III of 1900. Valuation for the purpose of Court fee is the price of the suit lands i.e., Rs. 25-15-0. Court fee thereon is of Rs. 27-0-0.

VI. Valuation for the purpose of jurisdiction is Rs. 27-0-0. That the suit falls within the jurisdiction of this Court as per S. 3 of Regulation VII of 1904.

VII. Notice under S. 80 C.P.C. Rs. 11 has been given to the defendant.

VIII. As per O 7 R 10 C.P.C. Rs. 11 for the purpose of service of all processes, the plaintiff's address is as above.

IX. [illegible]

60 acres of cultivable and 120 acres of uncultivable lands of the village of Dhanore Patil Mahal Parul, Javagal Kohli, Arsikere Taluk, Hassan District:--

Bounded on the;

East by Dagedur village

West by Parul halli village

Advocate for Plaintiff 31.12.1982

13. 45389 P 27

OFFICE OF THE REVENUE COMMISSIONER
IN MYSORE.

No. C.2865/27-28.

Dated Bangalore,..13th.....March..... .....192 8.

15

FROM

P. G. D'SOUZA, ESQ., B.A., B.L.,
REVENUE COMMISSIONER IN MYSORE.

To

The ~~Chief~~ Secretary to the Government
of His Highness the Maharaja of Mysore,
Law Department, *Bangalore.*

SIR,

8-1
15/3

Referring to your letter No.P.5161/Law. dated 8th March 1928 enquiring whether any summons has been received in this office re the suit said to have been filed by Mallegowda re Rangapur Amrit Mahal Kaval lands for the declaration of his right etc., I have the honour to state that no such summons has been received in this office.

I have the honour to be,

4101

S i r,

Your most obedient servant,

H. Hemanaya

Assistant Commissioner,
for Revenue Commissioner,
Absent from the station.